

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS**

September 6, 2011 – 3:00 PM

J. NEWTON COHEN, SR. ROOM

J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING
.....

Present: Chad Mitchell, Chairman
Carl Ford, Vice-Chairman
Jon Barber, Member
Raymond Coltrain, Member
Jim Sides, Member

County Manager Gary Page, Clerk to the Board Carolyn Athey, County Attorney Jay Dees and Finance Director Leslie Heidrick were present.

Chairman Mitchell convened the meeting at 3:00 pm.

Commissioner Sides provided the Invocation and also led the Pledge of Allegiance.

CONSIDER APPROVAL OF THE MINUTES

Commissioner Barber moved, Commissioner Coltrain seconded and the vote to approve the minutes of the August 15, 2011 Commission Meeting passed unanimously.

CONSIDER ADDITIONS TO THE AGENDA

There were no additions to the agenda.

CONSIDER DELETIONS FROM THE AGENDA

There were no deletions from the agenda.

CONSIDER APPROVAL OF THE AGENDA

Commissioner Barber moved, Commissioner Coltrain seconded and the vote to approve the agenda passed unanimously.

1. CONSIDER APPROVAL OF CONSENT AGENDA

Commissioner Barber moved approval of the Consent Agenda. The motion was seconded by Commissioner Coltrain and passed unanimously.

The Consent Agenda consisted of the following:

- A. Authorize Juvenile Crime Prevention Council to Apply for Department of Juvenile Justice and Delinquency Prevention Level 2 Dispositional Alternatives Projects
- B. Resolution for National Moment of Remembrance of the 10th Anniversary of September 11, 2001

WHEREAS, the governing body of Rowan County expresses their support of the United State's Senate regarding coming together as a Nation and ceasing all work or other activity for a moment of remembrance beginning at 1:00 p.m. Eastern Daylight Time on September 11, 2011, in honor of the 10th anniversary of the terrorist attacks committed against the United States on September 11, 2001; and

WHEREAS, at 8:46 a.m., on September 11, 2001, hijacked American Airlines Flight 11 crashed into the upper portion of the North Tower of the World Trade Center in New York City, New York; and

WHEREAS, 17 minutes later, at 9:03 a.m., hijacked United Airlines Flight 175 crashed into the South Tower of the World Trade Center; and

WHEREAS, at 9:37 a.m., the west wall of the Pentagon was hit by hijacked American Airlines Flight 77, the impact of which caused immediate and catastrophic damage to the headquarters of the Department of Defense; and

WHEREAS, at approximately 10:00 a.m., the passengers and crew of hijacked United Airlines Flight 93 acted heroically to retake control of the airplane and thwart the taking of additional American lives by crashing the airliner in Shanksville, Pennsylvania, and, in doing so, gave their lives to save countless others; and

WHEREAS, nearly 3,000 innocent civilians were killed in the heinous attacks of September 11, 2001; and

WHEREAS, tens of thousands of individuals narrowly escaped the attacks at the Pentagon and World Trade Center and, as witnesses to this tragedy, are forever changed; and

WHEREAS, countless fire departments, police departments, first responders, governmental officials, workers, emergency medical personnel, and volunteers responded immediately and heroically to those horrific events; and

WHEREAS, the Fire Department of New York suffered 343 fatalities on September 11, 2001, the largest loss of life of any emergency response agency in United States history; and

WHEREAS, the Port Authority Police Department suffered 37 fatalities in the attacks, the largest loss of life of any police force in United States history in a single day; and

WHEREAS, the New York Police Department suffered 23 fatalities as a result of the terrorist attacks; and

WHEREAS, the impact of that day on public health continues through 2011, as nearly 90,000 people are at risk of or suffering from negative health effects as a result of the events of September 11, 2001, including 14,000 workers and 2,400 community residents who are sick, and tens of thousands of others whose health is being monitored; and

WHEREAS, 10 years later, the people of the United States and people around the world continue to mourn the tremendous loss of innocent life on that fateful day; and

WHEREAS, 10 years later, thousands of men and women in the United States Armed Forces remain in harm's way defending the United States against those who seek to threaten the United States; and

WHEREAS, on the 10th anniversary of this tragic day, the thoughts of the people of the United States are with all of the victims of the events of September 11, 2001 and their families; and

WHEREAS, the lives of Americans were changed forever on September 11, 2001, when events threatened the American way of life; and

WHEREAS, in 2009, Congress and the President joined together to designate September 11 as a National Day of Service and Remembrance under the Serve America Act (Public Law 111-13; 123 Stat. 1460); and

WHEREAS, in September 2009 and 2010, President Obama issued Proclamation 8413 (74 Fed. Reg. 47045) and Proclamation 8559 (75 Fed. Reg. 56463) proclaiming September 11, 2009, and September 11, 2010, respectively, as Patriot Day and National Day of Service and Remembrance; and

WHEREAS, September 11 will never, and should never, be just another day in the hearts and minds of all people of the United States.

NOW, THEREFORE BE IT RESOLVED that the governing body of Rowan County:

(1) recognizes September 11, 2011, as a day of solemn commemoration of the events of September 11, 2001, and a day to come together as a Nation; and

(2) offers its deepest and most sincere condolences to the families, friends, and loved ones of the innocent victims of the September 11, 2001 terrorist attacks; and

(3) honors the heroic service, actions, and sacrifices of first responders, law enforcement personnel, state and local officials, volunteers, and countless others who aided the innocent victims of those attacks and, in doing so, bravely risked and often gave their own lives; and

(4) recognizes the valiant service, actions, and sacrifices of United States personnel, including members of the United States Armed Forces, the United States intelligence agencies, the United States diplomatic service, homeland security and law enforcement personnel, and their families, who have given so much, including their lives and well-being, to support the cause of freedom and defend the security of the United States; and

(5) reaffirms that the people of the United States will never forget the challenges our country endured on and since September 11, 2001, and will work tirelessly to defeat those who attacked the United States.

BE IT FURTHER RESOLVED that on the 10th anniversary of this tragic day in United States history the governing body of Rowan County calls upon all of the people and institutions of the United States to observe a moment of remembrance on September 11, 2011, including (i) media outlets; (ii) houses of worship; (iii) military organizations; (iv) veterans organizations; (v) airlines;

(vi) airports; (vii) railroads; (viii) sports teams; (ix) the Federal Government; (x) State and local governments; (xi) police, fire, and other public institutions; (xii) educational institutions; (xiii) businesses; and (xiv) other public and private institutions.

BE IT FURTHER RESOLVED that the governing body of Rowan County encourages the observance of the moment of remembrance to last for 1 minute beginning at 1:00 p.m. Eastern Daylight Time by, to the maximum extent practicable, ceasing all work or other activity; and marking the moment in an appropriate manner, including by ringing bells, blowing whistles, or sounding sirens.

C. Proclamation for Patriot Day – A Day of Remembrance for September 11, 2001

WHEREAS, on Tuesday September 11, 2001, terrorists attacked the United States of America in a series of senseless, cowardly, and despicable acts of war, directed at innocent men, women and children in the World Trade Center complex in New York City, the Pentagon in Washington D.C. and on board four passenger jets, resulting in the tragic loss of life of thousands of U.S. citizens and foreign nationals and;

WHEREAS, in the aftermath of the attacks, the people of the United States stood united in providing support for those in need, inspired by the heroic sacrifices of our firefighters, rescue and law enforcement personnel, military service members, and other citizens and;

WHEREAS, September 11th should not only be remembered as a day of great tragedy but also as a day of triumph, courage, kindness, love, hope and freedom, and as a reminder of the newfound unity, focus and strength in our Nation.

WHEREAS, by U.S. House Joint Resolution 71 signed into law on December 18, 2001 (Public Law 107-89), Congress authorized and requested the President to designate September 11th of each year as “Patriot Day” and call upon state and local governments to observe Patriot Day by displaying the flag of the United States at halfstaff and by observing a moment of silence at 8:46 a.m. marking the first plane crash.

NOW, THEREFORE, BE IT PROCLAIMED, that the Rowan County Board of Commissioners does hereby declare September 11, 2011 as *Patriot Day* in Rowan County and encourages all citizens to honor and respect the innocent victims of September 11, 2001 and to salute the heroism of public safety and rescue workers, volunteers, local officials, and those who responded to the tragic events with courage, selfless compassion, determination and undying patriotism.

D. Proclamation in Observance of Firefighters Week in Rowan County

WHEREAS, fighting fires is one of the most hazardous professions, requiring physical strength, stamina, extensive training, courage, and selfless concern for the welfare of others; and

WHEREAS, firefighters provide valuable services to the citizens of North Carolina, their communities, the State; and

WHEREAS, firefighters make sacrifices to protect the lives and financial interests of the citizens of North Carolina; and

WHEREAS, firefighters respond to emergencies without hesitation when the call of duty arises; and

WHEREAS, firefighters work with public safety officials and law enforcement officers to protect the integrity of crime scenes, which is necessary to resolve arson cases; and

WHEREAS, firefighters reside in the community in which they serve and have a great appreciation for protecting their communities; and

WHEREAS, it is appropriate to recognize the duties and services that firefighters perform by observing Firefighters Week in Rowan County.

NOW, THEREFORE BE IT RESOLVED by the Rowan County Board of Commissioners:

Section 1. The Board of Commissioners believes that all firefighters deserve to be honored for the invaluable service they provide to the State, its citizens, and communities.

Section 2. The Board of Commissioners encourages the citizens of Rowan County to observe the week in September of each year containing September 11 as Firefighters Week in Rowan County.

2. PUBLIC COMMENT PERIOD

Chairman Mitchell opened the Public Comment Period to entertain comments from any citizens wishing to address the Board. The following individuals came forward:

- Phyllis Sides said the sitting Chairman of the Board of Commissioners was a paid employee of the Rowan Salisbury School System (RSSS). Ms. Sides requested that the Chairman remove himself from any discussions regarding RSSS in order to avoid a conflict of interest or the appearance of a conflict of interest.
- Craig Pierce referred to a proposal for a new central office for RSSS and discussed what he believed to be the process for approval of major capital improvements. Mr. Pierce said he was not in disagreement with reviewing the need for a new central office; however, he was in disagreement that only one proposal might be considered.
- Sarah Martin asked for some type of legal control for firing of guns in the County. Ms. Martin discussed an incident that occurred on her property and stressed the need for an ordinance to protect the public.
- Paris Martin discussed the call response time for the Sheriff's Department and appealed to the Board for help.
- John Bare spoke in opposition to the plans for a new central office for RSSS and said he felt something more economical should be considered.

With no one else wishing to address the Board, Chairman Mitchell closed the Public Comment Period.

3. APPLICATION DECISION FOR CUP 02-10

Attorney Anthony Fox, with Parker Poe Bernstein & Adams, LLP, discussed the Board's decision for CUP 02-10. Mr. Fox referred to the handout in the agenda packet and said the decision recorded the Findings of Fact and conclusions of law and the decision of the Board after the August hearing.

Mr. Fox highlighted the handout as follows:

- The Rowan County Zoning Ordinance establishes certain standards for the issuance of a CUP and additional standards are also set out in the decision. The decision mentions meetings that were held between the interested parties and the adoption of pre-hearing rules of procedure. Mr. Fox said a concern had been raised by the Citizens Group as to the ability for Commissioner Ford to participate. Mr. Fox said Commissioners were polled and each board member indicated no financial interest, no inability to conduct a fair and impartial hearing, and to base decisions solely upon the evidence. Mr. Fox said the stipulations entered into by the parties were recorded on page 3 of the decision. Mr. Fox said page 4 states the application was in general conformity with the Ordinance and Land Use Plan (LUP). Mr. Fox said the specific findings were listed with regards to co-location efforts that were made.
- Mr. Fox said further findings were that the tower, if constructed and located as proposed, would not materially endanger the public health and safety.
- The proposed development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining abutting property if located where proposed.
- The location and character of the development in accordance with the proposed conditions will be in general harmony with the area in which it is located and in general conformity with adopted Rowan County plans. Mr. Fox said it then recants the testimony and finding as it relates to J. Scott Robinson, a certified public appraiser. Mr. Robinson's opinion was that no impact to value of adjoining properties would occur as a result of approval of the tower. Mr. Fox said findings were that the FAA had conducted a study and had issued a determination of no hazard. It also recalls the testimony of Mr. Patterson, which talked about the FAA determination, as well as Mr. Brock, who talked about the co-location opportunities with regards to the tower. Mr. Fox said on page 5, the findings stated that an active Federal Communications Commission license existed, as well as a construction permit, which remains valid. Mr. Fox said the fall zone easement, in the event the tower collapsed, was included as part of the application and the easement was sufficient. The proposed tower limits impacts to the North Carolina Scenic Byway and properties listed on the National Register. The North Carolina Department of Cultural Resources, State Historic Preservation Office, determinate that while the proposed tower would affect historical properties located within one and one half mile of the site, the effect would not be adverse.
- Adequate transportation access to the site exists. The parties stipulated and agreed that certain findings were met regarding adequate transportation access to the site and excessive traffic or parking would not result. Mr. Fox said the findings list remaining factors as related to additional requirements in the ordinance.
- Mr. Fox said the decision concludes that the standards of the Zoning Ordinance had been met and had been satisfied. Mr. Fox said the

decision provides for ordering the application for the CUP is granted subject to certain conditions brought to the Board by Staff. The additional condition added was that all co-locations on the tower shall require the prior approval of the Board of County Commissioners and that high intensity strobe lights be placed on the tower.

Chairman Mitchell said the Board had received and reviewed the decision as prepared by Mr. Fox and that the decision was before the Board for possible adoption.

In response to a query from Commissioner Coltrain, Mr. Fox clarified that on page 6 of the decision, the correct CUP number should be listed as CUP 02-10.

Commissioner Sides said with the change (as clarified by Mr. Fox on page 6), he moved approval of the application decision for CUP 02-10. The motion was seconded by Commissioner Ford and passed 3-2 with Commissioners Mitchell and Barber dissenting.

Mr. Fox added that the proposed decision was circulated to attorneys for both sides in advance and that no comments were provided. Mr. Fox said once the document was executed, it started the 30-day time period for an appeal.

4. PUBLIC HEARING FOR HLC 01-10: ZION ORGAN LUTHERAN CHURCH

Reid Walters of the Historic Landmarks Commission (HLC) presented the application from the congregation of Zion Organ Lutheran Church (Church) to designate the stone Church, Sunday school building, council building and cemetery of the Church property as a Rowan County Historic Landmark. Using a power point presentation, Mr. Walters showed the Church and said the Church was the oldest church structure in Rowan County and the oldest Lutheran Church in North Carolina. The church is located at 1515 Organ Church Road and identified as tax parcel 374 004.

Mr. Walters provided a history of the Church, which he stated was built between 1792 and 1795. Mr. Walters continued with the power point presentation as he described the various structures and properties involved in the request. Mr. Walters concluded by stating the congregation of the Church and the HLC request historic designation for the property.

Chairman Mitchell opened the public hearing to receive citizen input regarding HLC 01-10. The following individual came forward:

- Kaye Brown Hirst said she was a lifelong member of the Church and very proud of her heritage and Lutheran faith. Ms. Hirst said the congregation of the Church wished to thank the Board for its consideration of the request.

With no one else wishing to address the Board, Chairman Mitchell closed the public hearing.

Commissioner Barber moved, Commissioner Coltrain seconded and the vote to approve HLC 01-10 as presented passed unanimously.

5. PUBLIC HEARING FOR ZTA & FDPO 01-11

Senior Planner Shane Stewart reported that over the past several months, Planning Staff noted several changes that should be made within the Rowan County Code of Ordinances, along with potential amendments that warrant consideration. Mr. Stewart referred to the suggested changes in the agenda packet and said the existing text in the ordinance proposed to be removed appeared as strikethroughs and proposed text appeared as ***bold italicized text***.

The proposed text amendments begin on the next page.

Comments:

In subsections e 1-4, ordinance references 85-ED-3 twice.

Rodeos, horse shows, and similar uses are listed as conditional in the table of uses. Text in section would move to Sec. 21-60 (6) h [next page].

Language to exempt existing facilities similar to other requirements in this section.

AMENDMENTS TO CHAPTER 21, ZONING ORDINANCE

Sec. 21-4. Definitions.

Operational area means the dedicated ~~of~~ *or* utilized area necessary for a business function and is characterized by, but not limited to, buildings or warehouses, storage areas or stockpiles, parking and loading areas, sediment ponds and detention areas, etc.

Sec. 21-34. Economic development districts established for I-85.

(6) Other Zoning Criteria

e. *Development size.*

4. *85-ED-3. 4*

PUDs 20
acres

Sec. 21-56. Specific criteria for uses listed as SR in section 21-113.

(8) *Additional standards applicable to specific uses listed as SR in the services group.*

a. ~~*Rodeos, horse shows and similar uses (SIC 7999 (part)).*~~

1. ~~*Smoke, odors, dust. Operations shall not create any smoke odors or dust at a level which creates a nuisance to any person or normal sensitivities at the property line.*~~

2. ~~*Setbacks. All animals and animal storage areas shall be a minimum of one hundred (100) feet from any zone lot line.*~~

2. ~~*Parking. Adequate off street parking shall be provided for participants and spectators.*~~

3. ~~*Noise. Noise shall not exceed the level allowed in the county noise ordinance for residential districts.*~~

a. ~~b.~~ *Educational services (SIC 82, except SIC 8211, elementary and secondary schools).*

b. ~~c.~~ *Swimming pools, membership and nonmembership recreation facilities, membership and nonmembership.*

c. ~~d.~~ *Automotive repair and services (SIC 75).*

Sec. 21-60. Conditional use requirements for specific uses.

(2) *Manufacturing group*

c. *Site location.* Site shall have primary access to arterial or major collector street. ***This requirement is not applicable to expansions of facilities regulated under this subsection, which***

Comments:

Type II buffer does not exist.

Screening language in NB is different than all other districts. Change could encourage more NB locations in rural areas rather than CBI-CUD.

Permit reference is only found in NB district. Allow DOT to determine when a permit is required regardless of district.

are contiguous to facilities existing prior to August 16, 2004

[staff commentary: this matches language exempting the removal / reclamation requirement and separation standards for existing operations in this subsection].

(6) *Services group.*

f. *Civic, service and social fraternities (SIC 8641).*

2. *Buffers.* All buildings, off street parking and service areas will be separated by a type H A buffer from an abutting property in a residential zoning district or abutting a residential use.

h. [move Sec. 21-56 (8) a. for *Rodeos, horse shows, and similar uses*. Table of uses lists this group as conditional and not permitted with SR.]

Sec. 21-65. General criteria for uses listed SR in the NB District in section 21-113.

(14) *Screening and buffering.* ~~A Type A screen and buffer shall be placed along the sides and rear of the operational area. All areas not used for operation of the facility shall be covered with lawn, low growing evergreen shrubs, evergreen ground cover, or rock mulch or in a similar fashion as approved by the zoning administrator.~~ ***Screening as required by Sec. 21-216.***

~~(16) *Commercial driveway permit.* An approved commercial driveway permit must be issued by the NCDOT prior to issuance of a zoning permit.~~

Comments:

Offers mini-warehousing as an option in the RA and NB district if SRs are met.

Adult uses already listed as unclassified.

Cleanup. More options in RA and NB as a result.

Change allows the same uses in NB as in RA. Examples include: vocational training & day cares.

Section out of sequence.

Sec. 21-113. Table of uses.

P - Permitted by Right P(A) - Permitted as SR - Permitted with Special C - Conditional Use		Zoning Districts									
		Residential					Non-residential				
SIC	Use	RA	RR	RS	MHP	MFR	CBI	NB	INST	IND	
	Motor freight transportation and warehousing, <i>all except</i>						P			P	
42							P			P	
421	Trucking	SR	SR				P			P	
	Mini-warehouse warehousing	SR					P	SR		P	
	Dead storage of manufactured homes	SR	SR		SR	SR	SR			SR	
	Electric, gas, water services (SIC 491,492,493,494), <i>all except</i>						C			C	
49											
	Electric and water distribution lines, natural gas pipelines	P	P	P	P	P	P	P	P	P	
59	Miscellaneous retail, <i>all except</i>	SR					P	SR		P	
	Adult establishments						C				
72	Personal services, <i>all except</i>	SR					P	SR		P	
	Massage parlors						C				
	Coin-operated laundries,						P	SR		P	
7215											
7231	Beauty shop	SR					P	SR		P	
7241	Barber shop	SR					P	SR		P	
7291	Tax return services						P	SR		P	
83	Social services, <i>all except</i>	SR					P	SR	P	P	
8322	Individual and family social services						P		C	C	
8361	Residential care						C		C	C	
Unclassified											
	Adult uses						C				

Sec. 21-132. General provisions.

(4) (3) *Other standards for lot sizes.* Nothing contained herein exempts the contiguous lots considered as a single buildable lot or lots from meeting the applicable provisions of the county board of health regulations or other applicable state standards.

Comments:

Change groups accessory structures with their residential use and offers the same non-conforming options.

Based on several SUP requests and original text amendment for this section, operational area clarifies the intent of the “devoted” area.

Sec. 21-135. Extension, enlargement or replacement of a nonconforming use.

(a) Except as provided for in subsections (b) through (f), no nonconforming use shall be extended, enlarged, or replaced.

(b) Any single-family residential nonconforming use (which may be a manufactured home) ***or accessory structure associated with a residential use*** may be enlarged or replaced with a similar ~~single-family residential~~ structure of the same size or of a larger size, so long as the enlargement or replacement does not create new nonconformities or ~~increase the extent of existing nonconformities with respect to setback requirements~~ ***project further into the required setback. Accessory structures permitted in accordance with Sec. 21-54 or as rural home occupations may only be extended, enlarged, or replaced subject to subsections (c) through (f).***

(c) Any other nonconforming use may be extended, enlarged, or replaced only upon the issuance of a special use permit if the county board of commissioners finds that, in completing the extension, enlargement, or replacement work:

(1) There is no increase in the ~~total amount of area devoted to the nonconforming use;~~ ***operational area existing on the effective date of this ordinance;***

(2) There is no greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements or other requirements such as parking, loading and landscaping requirements; and

(3) There is no significant adverse impact on surrounding properties or the public health or safety including but not limited to no increase in the level of noise, dust, odor, glare or other nuisances.

In issuing a special use permit, the board of commissioners may affix other reasonable and appropriate conditions such as, but not limited to, landscaping and buffering to separate dissimilar uses or to screen parking and loading areas.

(d) A nonconforming situation may be extended throughout any portion of a completed building that, when the use therein was made nonconforming by this article, was manifestly designed or arranged to accommodate such use. However, a nonconforming situation may not be extended to additional buildings or to land outside the original building unless specifically authorized in accordance with subsection (c). In addition, the level of noise, dirt, odor, glare or other nuisance shall not increase.

Comments:

Staff recommends removing this encroachment since the intent of a buffer is separation and undeveloped land.

Provides operational area reference and exclusions to determine applicability.

Clarifies buffer requirement.

(e) A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a sand pit) may be expanded to the limits of the site plan upon which the mining permit was granted if such permit was obtained in compliance with all applicable laws and ordinances in effect at the time of approval.

(f) The volume, intensity, or frequency of use of property where a nonconforming use exists may be increased and the equipment or processes used at a location where a nonconforming use exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind or use and no violations of other sections of this article occur.

Sec. 21-136. Repairing damaged nonconforming structures.

(2) In the event of damage by fire or other causes to the ~~extend~~ **extent** exceeding seventy-five (75) percent of its tax value prior to such damage as established by the county codes enforcement supervisor, reconstruction of a nonconforming structure shall be permitted provided it is constructed: ...

Sec. 21-163. Parking areas.

(1) *Location.* Off-street parking areas shall be provided on the same zone lot as the principal use or on a nearby lot a reasonable walking distance away. Such areas shall not be located within any rights-of-way and shall be set back five (5) feet from any zone lot line. ~~Off-street parking may be in a required buffer but shall not be in the required setbacks.~~

Sec. 21-212. Applicability.

Unless expressly stated in this chapter, the requirements of this article shall not apply to uses listed as "SR" in the RA (Rural Agricultural) district, but do apply to uses listed as SR in other districts. The buffering and screening shall be adequate to meet the intent of section 21-211, but shall not exceed one hundred twenty-five (125) percent of the length of the development activity required to install the buffer and screening, unless required on a site plan approved by the board of commissioners. The requirements of this article shall apply to the side and rear yard ~~only~~ **only of the operational area except driveways, sediment ponds, and detention areas unless otherwise indicated herein.**

(Ord. of 1-19-98, § X)

Sec. 21-213. Buffer requirements.

(a) *Generally.* Buffers shall be required in accordance with the

Comments:

Two year limit
unless the BOC
approves up to five
years as found in the
vested rights
section.

*Definition change
clarifies how slab
construction is
measured.*

table in section 21-216 when any use is being developed abutting an existing developed lot, however less intensive uses locating next to more intensive uses shall not be required to comply with the screening portion of the requirements of this article. Where a conflict exists between the buffer requirements for a use and setback requirements for a zoning district, the use requirements shall control. ***The required buffer may not be used for parking, loading, storage, or similar operational area needs that are either part of or accessory to the proposed use unless otherwise indicated herein.***

Sec. 21-219. Applicability of screening and buffering requirements.

The requirements of this article shall not apply if an existing ***adjacent*** principal or accessory structure and the proposed structure or ~~storage area~~ ***operational area*** requiring provision of screening and buffering are separated by a distance of two hundred (200) feet or more. The distance shall be measured from the closest point of each structure.

Sec. 21-281. Temporary uses.

(2) Other temporary uses not listed may be granted by the board of commissioners. In considering approval of a temporary use the board may attach fair and reasonable conditions to ensure that the public health, safety and welfare are protected. The approval of a temporary use shall be in accordance with the following:

- a. The proposed use will not endanger the public health, safety and welfare;
- b. The proposed use will not have a substantial negative impact on the adjoining properties;
- c. The use will be approved for a specific period of time, not to exceed two (2) years ***unless deemed necessary by the Board of Commissioners in accordance with Sec. 21-11.*** Extension of the temporary use beyond the approved time shall require approval of the board of commissioners ***in the same manner as the original.***

AMENDMENTS TO CHAPTER 9, FLOOD DAMAGE PREVENTION ORDINANCE

Sec. 9-5. Definitions.

Reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within all special flood hazard areas. ***For the purposes of this definition, the reference***

level for slab construction is measured from the top of the lowest floor.

Mr. Stewart said Committee B unanimously recommended approval of the proposed text. On June 27, 2011 the Planning Board unanimously recommended approval of the proposed text with the removal allowing the 24" x 36" plats (not included herein) until all concerns from the Register of Deeds had been addressed with the following Statement of Consistency for consideration:

"The proposed amendments are consistent with applicable plans based on the clarification of the multiple sections of the Rowan County Code of Ordinances."

Commissioner Coltrain questioned page 2, Section 21-213 and the language to not allow the buffer area to be used for parking. Mr. Stewart explained that parking was part of the operational area.

Commissioner Coltrain felt there might be times where the buffer would be needed for employee parking and he did not see that there would be negative consequences for the neighbors if parking was allowed. Mr. Stewart said Type A buffers required 20' and within Section 21-213, parking could not be used within 5' of the property line. Mr. Stewart said therefore, the area in question was 15'.

Commissioner Coltrain said he could not support telling the property owner they could not use that portion of their property.

Commissioner Ford said the language should stay as is or be stricken altogether.

Mr. Stewart reported that the Committee and the Planning Board had much discussion regarding the text and felt it would provide better clarity in providing the language up front. Mr. Stewart said the idea of a buffer is that it should not be disturbed or used.

Commissioner Sides pointed out that when an issue reached the Board, an area had already been established on the property for parking and Mr. Stewart agreed.

Commissioner Sides recalled a situation the Board had faced before in regards to setbacks and the individual wanting to use the area for something else. Commissioner Sides said the Board was trying to avoid similar situations in the future.

Commissioner Coltrain agreed that the requirements should be established up front and the applicants should have the option to use the buffer area to park cars.

Chairman Mitchell opened the public hearing to receive citizen input regarding ZTA & FDPO 01-11. With no one wishing to address the Board, Chairman Mitchell closed the public hearing.

Commissioner Coltrain moved to adopt the ordinance with the change to remove the word “parking” from Section 21-213. Commissioner Sides seconded and the vote to approve ZTA & FDPO 01-11 as amended passed unanimously.

6. PUBLIC HEARING FOR FIRE PREVENTION & PROTECTION ORDINANCE

Commissioner Sides made a motion to remove the issue from the agenda and forward the information to the Planning Department to vet the document. Commissioner Sides said the ordinance was large document and he had several questions concerning the information. The motion was seconded by Commissioner Ford.

Commissioner Coltrain said he hoped the Planning Department had been involved in the discussion and development of the ordinance. Commissioner Coltrain said the ordinance was more technical and not the type of long-term planning issue the Planning Board was normally responsible for.

Upon being put to a vote, the motion on the floor passed 4-1 with Commissioner Coltrain dissenting.

7. PRESENTATION OF COUNTY HEALTH RANKINGS

Due to a scheduling conflict, this issue was moved to the September 19, 2011 agenda.

8. CONSIDER REQUEST FROM SHERIFF’S OFFICE FOR NEW DEPUTY POSITION

Sheriff Kevin Auten reported that effective August 1, 2011, the North Carolina General Assembly enacted into law an amendment to North Carolina General Statute § 7A-311. Sheriff Auten said the statute dealt with uniform civil process fees and the amendment increased the fee for service of process in civil cases from \$15 to \$30.

Sheriff Auten said the fees collected were to be used by the County to ensure the timely services of process within the County, which might include the hiring of additional law enforcement personnel upon the recommendation of the Sheriff.

Sheriff Auten reviewed the revenue account for the Sheriff’s fees collected over the past five (5) years. Sheriff Auten said based on the past amounts, the new fee schedule would boost the revenue of the account to approximately \$300,000 per year.

Sheriff Auten requested that the Board approve funding of a new deputy position beginning January 1, 2012 at a total cost of \$90,787.

Commissioner Sides moved, Commissioner Barber seconded and the vote to approve the request as presented passed unanimously.

9. CONSIDER APPROVAL OF BOARD APPOINTMENTS
ADULT CARE HOME ADVISORY COMMITTEE

Jonnette Powell submitted an application for reappointment. In order to be considered, the Board would need to waive the term limits set forth in the Resolution adopted in September 2009.

The term would be for three (3) years beginning September 1, 2011 and expiring August 31, 2014.

Sarah Stosen submitted a letter of resignation. Her term expires January 31, 2012.

Commissioner Sides moved to waive the term limits for Jonnette Powell. The motion was seconded by Commissioner Barber and passed unanimously.

Commissioner Sides nominated Jonnette Powell for reappointment and the nomination carried unanimously.

Commissioner Sides moved to accept the resignation from Sarah Stosen. The motion was seconded by Commissioner Coltrain and passed unanimously.

JUVENILE CRIME PREVENTION COUNCIL

Emily Coltrane serves as the newly appointed Regional District Chief Court Counselor. By virtue of this position, the Board is asked to appoint Emily Coltrane to the JCPC.

Commissioner Coltrain nominated Emily Coltrane and the nomination passed unanimously.

ROWAN TRANSIT SYSTEM

Kenneth Geathers submitted a letter of resignation due to his moving out of Rowan County. His term expires June 30, 2014.

Commissioner Ford moved to accept the letter of resignation from Kenneth Geathers. The motion was seconded by Commissioner Sides and passed unanimously.

ROWAN COUNTY PERSONNEL COMMISSION

Karen Ingram submitted an application for reappointment.

The term would be for four (4) years, beginning October 1, 2011 and expiring September 30, 2015.

Commissioner Barber nominated Karen Ingram

Commissioner Ford questioned whether the board should appoint individuals who work for another government entity. Commissioner Ford said he had no problem with Ms. Ingram's qualifications and was merely asking if government employees should be appointed to the Personnel Commission.

Commissioner Coltrain felt that someone familiar with government could be an asset to the Personnel Commission.

Chairman Mitchell said he did not see a problem inquiring as to how other counties handled appointments to their Personnel Commission.

Upon being put to a vote, the nomination to appoint Karen Ingram passed unanimously.

HISTORIC LANDMARKS COMMISSION

Andrew Goodall, staff support for the Historic Landmarks Commission (HLC), requested the removal of two (2) members of the HLC, Lee Withers and Ryan Kennedy, due to lack of attendance.

Commissioner Sides moved, Commissioner Ford seconded and the vote to remove Lee Withers and Ryan Kennedy from the HLC carried unanimously.

CLEVELAND ZONING AND PLANNING BOARD – ETJ

The Town of Cleveland requested the reappointment of Ramon (Ray) Davies to serve as an ETJ representative and the reappointment of Roy Huss to serve as an ETJ alternate on the Cleveland Zoning and Planning Board.

The terms would be for three years, expiring September 30, 2014.

Commissioner Ford nominated Ray Davies as an ETJ representative and Roy Huss as an ETJ alternate. The nomination passed unanimously.

GRANITE QUARRY ZONING AND PLANNING BOARD – ETJ

The Town of Granite Quarry requested the appointment of Robert C. Peeler to serve as an ETJ representative on the Granite Quarry Planning Board.

The term would be for three (3) years and expires July 31, 2014.

Commissioner Barber nominated Robert C. Peeler and the nomination carried unanimously.

10. ADJOURNMENT

There being no further business to come before the Board, Commissioner Coltrain moved to adjourn at 4:03 pm. The motion was seconded by Commissioner Ford and passed unanimously.

Respectfully Submitted,

Carolyn Athey, CMC, NCCCC
Clerk to the Board/Assistant to the County Manager